



Reprinted
January 12, 2010

SENATE BILL No. 23

DIGEST OF SB 23 (Updated January 11, 2010 4:31 pm - DI 102)

Citations Affected: IC 22-4; noncode.

Synopsis: Unemployment insurance. Delays from January 1, 2010, to January 1, 2011, changes in the taxable wage base and employer contribution rates for the unemployment compensation system. Specifies the contents of the written notice provided to base period and separating employers whenever an individual files an initial or additional claim for unemployment benefits (benefits). Requires the department of workforce development (department) to prescribe a standard form for an employer to use to object to a claimant's receipt of benefits. Provides that, if the employer submits the standard form within ten days after the mailing of notice that a former employee has filed an initial or additional claim for benefits, the claim is sent to an unemployment claims compliance center that contacts all employers for
(Continued next page)

Effective: Upon passage; January 1, 2010 (retroactive); July 1, 2010.

**Hershman, Kenley, Kruse,
Charbonneau, Tallian**

November 17, 2009, read first time and referred to Committee on Tax and Fiscal Policy.
January 5, 2010, reported favorably — Do Pass.
January 11, 2010, read second time, amended, ordered engrossed.

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information necessary for the department to determine whether the individual is eligible for benefits. Provides that, for any week in which the individual's eligibility is contested, the department may not pay benefits until both the employer and the claimant have had an opportunity to be heard, and the department determines that the claimant is eligible for benefits based on the information provided to the department. Provides that, if an employer appeals an initial determination granting benefits to a claimant and the determination is reversed at least in part based on information that the employer failed to provide in response to a department request, the employer's experience account (account) shall be charged 50% of the benefits paid to the employee that the employee was not entitled to receive and for which the employer's experience account may be charged. Provides that if the employee repays the benefits received the employer's account is credited with the amount of the employee's repayment up to 50% of the amount charged to the account. Repeals a provision that permits an employer with a debit reserve ratio to elect once, after December 31, 2009, and before January 1, 2012, to make a voluntary contribution to the fund and receive a credit to the employer's account equal to 250% of the amount of the voluntary contribution.

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Reprinted
January 12, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 23

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-4-2, AS AMENDED BY P.L.175-2009,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) Except as
4 otherwise provided in this section, "wages" means all remuneration as
5 defined in section 1 of this chapter paid to an individual by an
6 employer, remuneration received as tips or gratuities in accordance
7 with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and
8 includes all remuneration considered as wages under Sections 3301 and
9 3102 et seq. of the Internal Revenue Code. However, the term shall not
10 include any amounts paid as compensation for services specifically
11 excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of
12 employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall
13 include, but not be limited to, any payments made by an employer to an
14 employee or former employee, under order of the National Labor
15 Relations Board, or a successor thereto, or agency named to perform
16 the duties thereof, as additional pay, back pay, or for loss of
17 employment, or any such payments made in accordance with an

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1 agreement made and entered into by an employer, a union, and the
2 National Labor Relations Board.

3 (b) The term "wages" shall not include the following:

4 (1) That part of remuneration which, after remuneration equal to:

5 (A) seven thousand dollars (\$7,000), has been paid in a
6 calendar year to an individual by an employer or the
7 employer's predecessor with respect to employment during any
8 calendar year that begins after December 31, 1982, and before
9 January 1, ~~2010~~; **2011**; or

10 (B) nine thousand five hundred dollars (\$9,500), has been paid
11 in a calendar year to an individual by an employer or the
12 employer's predecessor for employment during a calendar year
13 that begins after December 31, ~~2009~~; **2010**;

14 unless that part of the remuneration is subject to a tax under a
15 federal law imposing a tax against which credit may be taken for
16 contributions required to be paid into a state unemployment fund.
17 For the purposes of this subdivision, the term "employment" shall
18 include service constituting employment under any employment
19 security law of any state or of the federal government. However,
20 nothing in this subdivision shall be taken as an approval or
21 disapproval of any related federal legislation.

22 (2) The amount of any payment (including any amount paid by an
23 employer for insurance or annuities or into a fund to provide for
24 any such payment) made to, or on behalf of, an individual or any
25 of the individual's dependents under a plan or system established
26 by an employer which makes provision generally for individuals
27 performing service for it (or for such individuals generally and
28 their dependents) or for a class or classes of such individuals (or
29 for a class or classes of such individuals and their dependents) on
30 account of:

31 (A) retirement;

32 (B) sickness or accident disability;

33 (C) medical or hospitalization expenses in connection with
34 sickness or accident disability; or

35 (D) death.

36 (3) The amount of any payment made by an employer to an
37 individual performing service for it (including any amount paid
38 by an employer for insurance or annuities or into a fund to
39 provide for any such payment) on account of retirement.

40 (4) The amount of any payment on account of sickness or accident
41 disability, or medical or hospitalization expenses in connection
42 with sickness or accident disability made by an employer to, or on

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behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 2. IC 22-4-10-3, AS AMENDED BY P.L.175-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. (a) This subsection applies before January 1, ~~2010~~ **2011**. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, ~~2009~~ **2010**. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to twelve percent (12%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, 22-4-11.5, and IC 22-4-37-3.

SECTION 3. IC 22-4-11-2, AS AMENDED BY P.L.175-2009,



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SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5: ~~or IC 22-4-10-5.5.~~

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3.3 or 3.5 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) before January 1, ~~2010~~, **2011**, and two and five-tenths percent (2.5%) after December 31, ~~2009~~, **2010**, except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) This subsection applies before January 1, ~~2010~~, **2011**. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give

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1 written notice to the employer before this additional condition or
2 requirement shall apply.

3 (d) This subsection applies after December 31, ~~2009~~ **2010**. In
4 addition to the conditions and requirements set forth and provided in
5 subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less
6 than twelve percent (12%) unless all required contributions and wage
7 reports have been filed within thirty-one (31) days following the
8 computation date and all contributions, penalties, and interest due and
9 ~~owning owing~~ by the employer or the employer's predecessor for
10 periods before and including the computation date have been paid:

11 (1) within thirty-one (31) days following the computation date; or

12 (2) within ten (10) days after the department has given the
13 employer a written notice by registered mail to the employer's last
14 known address of:

15 (A) the delinquency; or

16 (B) failure to file the reports;

17 whichever is the later date. The board or the board's designee may
18 waive the imposition of rates under this subsection if the board finds
19 the employer's failure to meet the deadlines was for excusable cause.
20 The department shall give written notice to the employer before this
21 additional condition or requirement shall apply.

22 (e) However, if the employer is the state or a political subdivision
23 of the state or any instrumentality of a state or a political subdivision,
24 or any instrumentality which is wholly owned by the state and one (1)
25 or more other states or political subdivisions, the employer may
26 contribute at a rate of:

27 (1) one percent (1%), before January 1, ~~2010~~ **2011**; or

28 (2) one and six-tenths percent (1.6%), after December 31, ~~2009~~;
29 **2010**;

30 until it has been subject to this article throughout the thirty-six (36)
31 consecutive calendar months immediately preceding the computation
32 date.

33 (f) On the computation date every employer who had taxable wages
34 in the previous calendar year shall have the employer's experience
35 account charged with the amount determined under the following
36 formula:

37 STEP ONE: Divide:

38 (A) the employer's taxable wages for the preceding calendar
39 year; by

40 (B) the total taxable wages for the preceding calendar year.

41 STEP TWO: Multiply the quotient determined under STEP ONE
42 by the total amount of benefits charged to the fund under section

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1 of this chapter.

(g) One (1) percentage point of the rate imposed under subsection (c) or (d), or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 4. IC 22-4-11-3, AS AMENDED BY P.L.175-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. (a) The applicable schedule of rates for calendar years before January 1, ~~2010~~, **2011**, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, ~~2009~~, **2010**, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule

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below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected or is required to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E
1.0%	1.2%	F
1.2%	1.4%	G
1.4%	1.6%	H
1.6%		I

(c) For calendar year ~~2010~~ **2011** only, Schedule B applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 5. IC 22-4-11-3.3, AS AMENDED BY P.L.175-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3.3. (a) For calendar years after 2001 and before ~~2010~~, **2011**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

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	As	But	Rate Schedules				
	Much	Less	(%)				
	As	Than	A	B	C	D	E
1	3.00		1.10	0.10	0.10	0.10	0.15
2	2.80	3.00	1.30	0.30	0.10	0.10	0.15
3	2.60	2.80	1.50	0.50	0.10	0.10	0.15
4	2.40	2.60	1.70	0.70	0.30	0.10	0.20
5	2.20	2.40	1.90	0.90	0.50	0.10	0.20
6	2.00	2.20	2.10	1.10	0.70	0.30	0.40
7	1.80	2.00	2.30	1.30	0.90	0.50	0.60
8	1.60	1.80	2.50	1.50	1.10	0.70	0.80
9	1.40	1.60	2.70	1.70	1.30	0.90	1.00
10	1.20	1.40	2.90	1.90	1.50	1.10	1.20
11	1.00	1.20	3.10	2.10	1.70	1.30	1.40
12	0.80	1.00	3.30	2.30	1.90	1.50	1.60
13	0.60	0.80	3.50	2.50	2.10	1.70	1.80
14	0.40	0.60	3.70	2.70	2.30	1.90	2.00
15	0.20	0.40	3.90	2.90	2.50	2.10	2.20
16	0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years after 2001 and before ~~2010~~, **2011**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

	As	But	Rate Schedules				
	Much	Less	(%)				
	As	Than	A	B	C	D	E
1		1.50	4.40	4.30	4.20	4.10	5.40
2	1.50	3.00	4.70	4.60	4.50	4.40	5.40
3	3.00	4.50	5.00	4.90	4.70	4.70	5.40
4	4.50	6.00	5.30	5.20	5.10	5.00	5.40
5	6.00		5.60	5.50	5.40	5.40	5.40

SECTION 6. IC 22-4-11-3.5, AS ADDED BY P.L.175-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3.5. (a) For calendar years after ~~2009~~, **2010**, if the conditions of section 2 of this chapter are



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met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are therefore eligible according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As	But	Rate Schedules					
Much	Less	(%)					
As	Than	A	B	C	D	E	
3.00		0.75	0.70	0.70	0.60	0.50	
2.80	3.00	1.00	0.90	0.90	0.80	0.70	
2.60	2.80	1.30	1.20	1.10	1.00	0.90	
2.40	2.60	1.60	1.50	1.40	1.30	1.20	
2.20	2.40	1.90	1.80	1.70	1.50	1.40	
2.00	2.20	2.20	2.00	1.90	1.80	1.60	
1.80	2.00	2.50	2.30	2.20	2.00	1.80	
1.60	1.80	2.80	2.60	2.40	2.20	2.00	
1.40	1.60	3.10	2.90	2.70	2.50	2.30	
1.20	1.40	3.40	3.20	3.00	2.70	2.50	
1.00	1.20	3.70	3.40	3.20	3.00	2.70	
0.80	1.00	4.00	3.70	3.50	3.20	2.90	
0.60	0.80	4.30	4.00	3.70	3.40	3.10	
0.40	0.60	4.60	4.30	4.00	3.70	3.40	
0.20	0.40	4.90	4.60	4.30	3.90	3.60	
0.00	0.20	5.20	4.80	4.50	4.20	3.80	

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As	But	Rate Schedules				
Much	Less	(%)				
As	Than	F	G	H	I	
3.00		0.40	0.40	0.30	0.00	
2.80	3.00	0.60	0.50	0.40	0.00	
2.60	2.80	0.80	0.70	0.60	0.10	
2.40	2.60	1.10	1.00	0.90	0.10	
2.20	2.40	1.30	1.20	1.00	0.10	
2.00	2.20	1.40	1.20	1.00	0.10	
1.80	2.00	1.60	1.40	1.20	0.10	



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1	1.60	1.80	1.80	1.60	1.40	0.20
2	1.40	1.60	2.10	1.90	1.70	0.20
3	1.20	1.40	2.20	2.00	1.70	0.20
4	1.00	1.20	2.40	2.10	1.80	0.20
5	0.80	1.00	2.60	2.30	2.00	0.20
6	0.60	0.80	2.80	2.50	2.20	0.20
7	0.40	0.60	3.10	2.80	2.40	0.30
8	0.20	0.40	3.20	2.80	2.40	0.30
9	0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after ~~2009~~, **2010**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As	But	Rate Schedules					
Much	Less	(%)					
As	Than	A	B	C	D	E	
0.00	1.50	6.75	6.30	5.90	5.40	4.90	
1.50	3.00	7.00	6.50	6.10	5.60	5.10	
3.00	4.50	7.25	6.70	6.30	5.80	5.30	
4.50	6.00	7.50	7.00	6.50	6.00	5.50	
6.00	8.00	7.75	7.20	6.70	6.20	5.70	
8.00	10.00	8.25	7.70	7.20	6.60	6.00	
10.00	12.00	8.75	8.10	7.60	7.00	6.40	
12.00	14.00	9.25	8.60	8.00	7.40	6.80	
14.00	16.00	9.75	9.10	8.50	7.80	7.10	
16.00		10.20	9.50	8.90	8.20	7.40	

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As	But	Rate Schedules				
Much	Less	(%)				
As	Than	F	G	H	I	
0.00	1.50	4.40	3.90	3.40	0.40	
1.50	3.00	4.60	4.10	3.60	0.40	
3.00	4.50	4.80	4.30	3.80	0.40	



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1	4.50	6.00	4.90	4.40	3.80	0.40
2	6.00	8.00	5.10	4.50	3.90	0.40
3	8.00	10.00	5.40	4.80	4.20	0.50
4	10.00	12.00	5.80	5.20	4.50	0.50
5	12.00	14.00	6.10	5.40	4.70	0.50
6	14.00	16.00	6.40	5.70	5.00	0.50
7	16.00		6.70	6.00	5.40	5.40

SECTION 7. IC 22-4-17-2, AS AMENDED BY P.L.175-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly follow the procedure described in subsections (b) through (e) to make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim; and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim; if the employer disputes the claim. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) When an individual files an initial or additional claim for benefits, the department shall promptly furnish a written notice of the employer's benefit liability to each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to the individual and to the employer from whom the individual has mostly recently separated. The notice shall contain at least the following:

(1) The date.



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- (2) The individual's name.
- (3) The individual's Social Security account number.
- (4) The ending date of the individual's base period.
- (5) The week ending date of the first week of the individual's benefit period.
- (6) The time by which the employer is required to respond to the notice.
- (7) A ratio, the numerator of which is the amount of the individual's benefits chargeable to the employer's experience or reimbursable account and the denominator of which is the individual's earnings from the employer.
- (8) An explanation of the employer's right to protest the claim and the payment of any benefits based on the claim.
- (9) The place at and time by which a protest described in subdivision (8) must be made.
- (10) The form and contents of a protest described in subdivision (8).

(b) (c) Not later than January 1, July 1, 2010, the department shall do the following:

(1) Establish an unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a determination that the individual is eligible for benefits, shall compare the information provided by the individual making the claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.

(2) Prescribe a standard form for use by an employer that objects to a claimant's receipt of benefits on any of the following grounds:

- (A) The claimant is disqualified under IC 22-4-15-1.
- (B) The claimant is ineligible under IC 22-4-15-2.
- (C) The claimant has received deductible income under IC 22-4-5-1 or IC 22-4-5-2.
- (D) The claimant never has been employed by the

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1 employer.

2 (E) The claimant is ineligible or disqualified for any other
3 reason.

4 (d) Whenever an employer submits the form prescribed under
5 subsection (c)(2) within the ten (10) day period described in
6 subsection (g), the department shall send the claim for benefits
7 associated with the employer's objection to the unemployment
8 claims compliance center under subsection (c)(1).

9 ~~(c)~~ (e) After receiving a claim from the department, the
10 unemployment claims compliance center shall contact the separating
11 employer ~~all employers~~ that provided information that does not match
12 information provided by the individual making the claim to obtain any
13 information about the claim that is accurate and sufficient necessary
14 for the department to determine whether the individual is eligible for
15 benefits. The center shall also obtain from the employer the name and
16 address of a person to receive without delay notices served on the
17 employer concerning the claim.

18 ~~(d)~~ Except as provided in subsection (e); (f) If the employer has
19 submitted the form prescribed under subsection (c)(2), the
20 department may not pay the individual benefits under this article as
21 long as the discrepancy between the information provided by the
22 individual and the information provided by the individual's separating
23 employer is unresolved. If the information provided by an individual
24 and the information provided by the individual's separating employer
25 does not match, the department shall notify both the separating
26 employer and the individual that they have forty-eight (48) hours to
27 resolve the discrepancy. If the discrepancy is not resolved at the end of
28 the forty-eighth hour, the department shall use the information provided
29 by the employer to determine the individual's eligibility for benefits.

30 (e) If the employer does not respond to the inquiry from the
31 unemployment claims compliance center within five (5) days after the
32 date of the inquiry, the center shall report to the department that the
33 employer has not responded, and the department shall use the
34 information provided by the individual to determine the individual's
35 eligibility for benefits.

36 (f) After the department makes a determination concerning the
37 individual's eligibility for benefits, the department shall promptly
38 furnish each employer in the base period whose experience or
39 reimbursable account is potentially chargeable with benefits to be paid
40 to such individual with a notice in writing of the employer's benefit
41 liability. The notice shall contain the date, the name and Social Security
42 account number of the individual, the ending date of the individual's

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base period; the week ending date of the first week of the individual's benefit period; the time by which the employer is required to respond to the notice; and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim; if an employer disputes the claim. The notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith: **for any week in which the individual's eligibility is contested until both the employer and the claimant have had an opportunity to be heard, and the department determines that the claimant is eligible for benefits based on the information provided to the department. If the department determines that the separating employer identified by the claimant is not the claimant's separating employer, the department may not pay benefits under this article until the correct separating employer is notified as required by subsection (b) and has an opportunity to respond as provided in subsection (g).**

(g) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

(h) If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is ~~delivered~~ **mailed** to the employing unit; the department shall make ~~the determination~~ **a decision** with the information available.

(i) If:

(1) an employer ~~subsequently obtains a determination by the department that the employee is not eligible for benefits; appeals an original determination granting benefits to a claimant and the determination is reversed on appeal;~~ and

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(2) the ~~determination~~ **decision to reverse the determination** is at least in part based on information that the department requested from the employer under subsection (h), but which the employer failed to provide within ten (10) days after the department's request was ~~delivered~~ **mailed** to the employer; the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to which the employee was not entitled **and for which the employer's experience account may be charged.**

(j) If:

(1) the employer's experience account is charged under subsection (i); and

(2) the employee repays all or a part of the benefits on which the charge under subsection (i) is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to **fifty percent (50%)** of the amount charged to the employer's experience account under subsection (i).

(k) In addition to the ~~foregoing~~ determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in section 3 of this chapter.

(l) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim; the eligibility of the claimant for waiting period credit or benefits; or the imposition of a disqualification period or penalty; or the denial thereof; and of the cause for which the claimant left the claimant's work; of such determination and the reasons thereof:

(l) Whenever a determination is made as to the validity of any claim for benefits or the eligibility of any claimant for benefits that involves:

(1) the cancellation of wage credits or benefit rights;

(2) the imposition of any disqualification, period of ineligibility, or penalty; or

(3) a denial of the claim;

the department shall mail a written notice to the claimant and each

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employer directly involved or connected with the issue that is the basis for the determination. The claimant or an employer may protest the determination within the time limits and in the manner provided in this section and is entitled to a hearing before an administrative law judge.

(m) Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the notification required by subsection (k) was mailed to the claimant's or the employer's last known address or otherwise delivered to the claimant or the employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(n) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant or employer, within fifteen (15) days after the notification required by subsection (k) was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(o) If a claimant or an employer requests a hearing under subsection (m) or (n), the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this section and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(p) A person may not participate on behalf of the department in any case in which the person is an interested party.

(q) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original

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determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (g).

(r) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(s) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 8. IC 22-4-10-5.5 IS REPEALED [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)].

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) The department of workforce development shall prescribe the standard form required by IC 22-4-17-2, as amended by this act, before July 1, 2010.**

(b) This SECTION expires July 1, 2010.

SECTION 10. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 23, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 23 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 23 be amended to read as follows:

Page 4, line 9, after "IC 22-4-10-5" insert ":".

Page 4, line 9, strike "or".

Page 4, strike line 10.

Page 5, line 9, strike "owning" and insert "owing".

Page 11, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 7. IC 22-4-17-2, AS AMENDED BY P.L.175-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly follow the procedure described in subsections (b) through (e) to make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim; and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim; if the employer disputes the claim. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured,

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the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) When an individual files an initial or additional claim for benefits, the department shall promptly furnish a written notice of the employer's benefit liability to each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to the individual and to the employer from whom the individual has mostly recently separated. The notice shall contain at least the following:

- (1) The date.**
- (2) The individual's name.**
- (3) The individual's Social Security account number.**
- (4) The ending date of the individual's base period.**
- (5) The week ending date of the first week of the individual's benefit period.**
- (6) The time by which the employer is required to respond to the notice.**
- (7) A ratio, the numerator of which is the amount of the individual's benefits chargeable to the employer's experience or reimbursable account and the denominator of which is the individual's earnings from the employer.**
- (8) An explanation of the employer's right to protest the claim and the payment of any benefits based on the claim.**
- (9) The place at and time by which a protest described in subdivision (8) must be made.**
- (10) The form and contents of a protest described in subdivision (8).**

(c) Not later than January 1, 2010, the department shall do the following:

- (1) Establish an unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a determination that the individual is eligible for benefits, shall compare the information provided by the individual making the claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may**

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not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.

(2) Prescribe a standard form for use by an employer that objects to a claimant's receipt of benefits on any of the following grounds:

(A) The claimant is disqualified under IC 22-4-15-1.

(B) The claimant is ineligible under IC 22-4-15-2.

(C) The claimant has received deductible income under IC 22-4-5-1 or IC 22-4-5-2.

(D) The claimant never has been employed by the employer.

(E) The claimant is ineligible or disqualified for any other reason.

(d) Whenever an employer submits the form prescribed under subsection (c)(2) within the ten (10) day period described in subsection (g), the department shall send the claim for benefits associated with the employer's objection to the unemployment claims compliance center under subsection (c)(1).

~~(c)~~ (e) After receiving a claim from the department, the unemployment claims compliance center shall contact the separating employer all employers that provided information that does not match information provided by the individual making the claim to obtain any information about the claim that is accurate and sufficient necessary for the department to determine whether the individual is eligible for benefits. The center shall also obtain from the employer the name and address of a person to receive without delay notices served on the employer concerning the claim.

~~(d)~~ Except as provided in subsection ~~(c)~~, (f) If the employer has submitted the form prescribed under subsection (c)(2), the department may not pay the individual benefits under this article as long as the discrepancy between the information provided by the individual and the information provided by the individual's separating employer is unresolved. If the information provided by an individual and the information provided by the individual's separating employer does not match, the department shall notify both the separating employer and the individual that they have forty-eight (48) hours to resolve the discrepancy. If the discrepancy is not resolved at the end of the forty-eighth hour, the department shall use the information

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provided by the employer to determine the individual's eligibility for benefits.

(e) If the employer does not respond to the inquiry from the unemployment claims compliance center within five (5) days after the date of the inquiry, the center shall report to the department that the employer has not responded, and the department shall use the information provided by the individual to determine the individual's eligibility for benefits.

(f) After the department makes a determination concerning the individual's eligibility for benefits, the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. The notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, the week ending date of the first week of the individual's benefit period, the time by which the employer is required to respond to the notice, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim, if an employer disputes the claim. The notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith. **for any week in which the individual's eligibility is contested until both the employer and the claimant have had an opportunity to be heard, and the department determines that the claimant is eligible for benefits based on the information provided to the department. If the department determines that the separating employer identified by the claimant is not the claimant's separating employer, the department may not pay benefits under this article until the correct separating employer is notified as required by subsection (b) and has an opportunity to respond as provided in subsection (g).**

(g) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form

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prescribed by the department.

(h) If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is ~~delivered~~ **mailed** to the employing unit; the department shall make ~~the determination~~ **a decision** with the information available.

(i) If:

(1) an employer ~~subsequently obtains a determination by the department that the employee is not eligible for benefits;~~ **appeals an original determination granting benefits to a claimant and the determination is reversed on appeal;** and

(2) the ~~determination~~ **decision to reverse the determination** is at least in part based on information that the department requested from the employer under subsection (h), but which the employer failed to provide within ten (10) days after the department's request was ~~delivered~~ **mailed** to the employer;

the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to which the employee was not entitled **and for which the employer's experience account may be charged.**

(j) If:

(1) the employer's experience account is charged under subsection (i); and

(2) the employee repays all or a part of the benefits on which the charge under subsection (i) is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to **fifty percent (50%)** of the amount charged to the employer's experience account under subsection (i).

(k) In addition to the ~~foregoing~~ determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in section 3 of this chapter.

(l) ~~In cases where the claimant's benefit eligibility or~~

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disqualification is disputed; the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim; the eligibility of the claimant for waiting period credit or benefits; or the imposition of a disqualification period or penalty; or the denial thereof; and of the cause for which the claimant left the claimant's work; of such determination and the reasons thereof.

(l) Whenever a determination is made as to the validity of any claim for benefits or the eligibility of any claimant for benefits that involves:

- (1) the cancellation of wage credits or benefit rights;**
- (2) the imposition of any disqualification, period of ineligibility, or penalty; or**
- (3) a denial of the claim;**

the department shall mail a written notice to the claimant and each employer directly involved or connected with the issue that is the basis for the determination. The claimant or an employer may protest the determination within the time limits and in the manner provided in this section and is entitled to a hearing before an administrative law judge.

(m) Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the notification required by subsection (k) was mailed to the claimant's or the employer's last known address or otherwise delivered to the claimant or the employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(n) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant or employer, within fifteen (15) days after the notification required by subsection (k) was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(o) If a claimant or an employer requests a hearing under subsection (m) or (n), the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this section and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a

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claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(p) A person may not participate on behalf of the department in any case in which the person is an interested party.

(q) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (g).

(r) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(s) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 8. IC 22-4-10-5.5 IS REPEALED [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)].

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) The department of workforce development shall prescribe the standard form required by IC 22-4-17-2, as amended by this act, before July 1, 2010.**

(b) This SECTION expires July 1, 2010."

Renumber all SECTIONS consecutively.

(Reference is to SB 23 as printed January 6, 2010.)

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